

Power Integrations v. Fairchild

Exhibit 4

Power Integrations' Statement of Issues of Law Remaining to be Litigated

Plaintiff Power Integrations expects it will present the below listed issues of law at trial. To the extent that any issues of fact set forth in Exhibit 2 of the Joint Pretrial Order may be considered issues of law, Power Integrations incorporates those portions of Exhibit 2 by reference. These issues of law may change based on the Court's decisions on motions currently pending before the Court, including motions *in limine*.

A. Validity of Power Integrations' Patents

1. Whether the asserted Claims of U.S. Patent Nos. 6,249,876 B1, of U.S. Patent No. 6,107,851, U.S. Patent No. 6,229,366 B1, and U.S. Patent No. 4,811,075 are invalid under 35 U.S.C. §103 as obvious in light of the prior art. Authority:

- 35 U.S.C. § 102
- 35 U.S.C. § 103
- 35 U.S.C. § 282
- *Carella v. Starlight Archery*, 804 F.2d 135 (Fed. Cir. 1986).
- *Graham v. John Deere Co.*, 383 U.S. 1 (1966).
- *Monarch Knitting Machine Corp. v. Sulzur Morat GmbH*, 139 F.3d 877 (Fed. Cir. 1998).
- *Panduit Corp. v. Dennison Manufacturing Co.*, 810 F.2d 1561 (Fed. Cir. 1987).
- *In re Rouffet*, 149 F.3d 1350 (Fed. Cir. 1998).

B. Non-Jury Issues for Court

1. Inequitable Conduct: Whether Fairchild has presented clear and convincing evidence that Power Integrations intended to deceive the PTO by making any material misrepresentations or omissions during the prosecution of one or more of the patents-in-suit to warrant holding any of the patents unenforceable. Authority:

- *Glaverbel Societe Anonyme v. Northlake Mktg. & Supply, Inc.*, 45 F.3d 1550, 1556 (Fed. Cir. 1995).
- *Sensonics, Inc. v. Aerosonic Corp.*, 81 F.3d 1566, 1571 (Fed. Cir. 1996).
- *Symbol Techs., Inc. v. Opticon, Inc.*, 935 F.2d 1569, 1582 (Fed. Cir. 1991).
- *Therma-Tru Corp. v. Peachtree Doors Inc.*, 44 F.3d 988, 995 (Fed. Cir. 1995).
- *Hoffmann-La Roche, Inc. v. Promega Corp.*, 323 F.3d 1354 (Fed. Cir. 2003).

2. Prejudgment Interest: Whether Power Integrations is entitled to prejudgment interest on any damages awarded from the time of Fairchild's alleged infringement through judgment. Authority:

- *Bio-Rad Labs., Inc. v. Nicolet Instr. Corp.*, 807 F.2d 964 (Fed. Cir. 1987).
- *Gryomat Corp. v. Champion Spark Plug Co.*, 735 F.2d 549 (Fed. Cir. 1984).
- *Richardson v. Suzuki Motor Co., Ltd.*, 868 F.2d 1226 (Fed. Cir. 1989).

3. Increased Damages: Whether Power Integrations is entitled to increased damages as a result of Fairchild's alleged willful infringement of Power Integrations' patents. Authority:

- 35 U.S.C. § 281.
- 35 U.S.C. § 284.
- *CPG Products Corp. v. Pegasus Luggage, Inc.*, 776 F.2d 1007, (Fed. Cir. 1985).
- *Jurgens v. CBK, Ltd.*, 80 F.3d 1566, (Fed. Cir. 1996).

4. Exceptional Case: Whether this is an "exceptional" case justifying an award of attorneys fees in Power Integrations' favor. Authority:

- 35 U.S.C. § 285.
- *Great Northern Corp. v. Davis Core & Pad Co., Inc.*, 782 F.2d 159 (Fed. Cir. 1986).
- *Spindelfabrik Suessen-Schurr, Stahlecker & Grill GmbH v. Schubert & Salzer Maschinenfabrik*, 829 F.2d 1075 (Fed. Cir. 1987).

5. Injunction: The scope of the permanent injunction to which Power Integrations is entitled enjoining Fairchild from further infringement of the asserted claims in the patents-in-suit. Authority:

- 35 U.S.C. § 283.
- *Genentech, Inc. v. Wellcome Foundation Ltd.*, 826 F. Supp. 828 (D. Del. 1993).
- *Richardson v. Suzuki Motor Co., Ltd.*, 868 F.2d 1226, 1247 (Fed. Cir. 1989).
- *eBay Inc v. MercExchange, L.L.C.*, 126 S. Ct. 1837 (2006).